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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q94468

Toshihisa KOMORI, et al.

Appln. No.: 10/576,496✓

Group Art Unit: 1614

Confirmation No.: 4656

Examiner: Steven Post

Filed: April 20, 2006

For: BONE AND/OR JOINT DISEASE-ASSOCIATED GENES

PETITION UNDER 37 C.F.R. § 1.182
REQUEST FOR REFUND

MAIL STOP PETITIONS

P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby respectfully requests a refund in the amount of \$27,450.00. This refund is to be credited to Deposit Account No. 19-4880.

- On April 20, 2006 Applicant filed for entry into the National Stage under 35 U.S.C. §371 and paid a total claims fee of \$1,900.
- On September 13, 2006 Applicant filed a Preliminary Amendment and, pursuant to the undersigned's authorization, the USPTO charged the undersigned's deposit account in the amount of \$1,800, for the excess claims.
- On September 22, 2006, Ms. Anita Johnson, USPTO PCT Operations, National Stage Division, contacted the undersigned and advised that the excess claim fee was \$23,650.
- Ms. Johnson asked the undersigned if Applicant would want to file a second Preliminary Amendment to reduce the excess claim fee.

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- On October 5, 2006, the undersigned contacted Ms. Johnson and asked if there was a deadline by which any amendment reducing the number of claims needed to be filed. Ms. Johnson advised that there was not.
- On October 5, 2005, the undersigned also notified Applicant's foreign representative of the opportunity to reduce the excess claim fee.
- On October 16, 2006, Applicant's foreign representative forwarded a draft of a second Preliminary Amendment to reduce the claim fee and requested the undersigned to confirm that the amendment was appropriate.
- On October 18, the undersigned reported to Applicant's foreign representative.
- On October 20, Applicant's foreign representative authorized filing of a second Preliminary Amendment.
- On October 27, the undersigned contacted Ms. Johnson and asked how the second Preliminary Amendment should be filed. Per Ms. Johnson's request, the second Preliminary Amendment was sent to Ms. Johnson via facsimile. Ms. Johnson was notified of the same by telephone and verbally confirmed that she had received the amendment.
- A copy of the cover sheet of the facsimile transmission is attached.¹

¹ A copy of the second Preliminary Amendment was re-filed electronically on November 9, 2006, because as of October 30, 2006, the second Preliminary Amendment was not in the IFW. As of the filing of this Petition, both copies of the Preliminary Amendment are in the IFW.

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- On October 30, Ms. Johnson contacted the undersigned to advise that the file had been removed from her desk without her knowledge and processed without entry of the second Preliminary Amendment.
- As a result, an excess claim fee in the amount of \$24,350 was charged to the undersigned's deposit account on October 20, 2006. Thus, a total claims fee of \$28,050 ($\$1,900 + \$1,800 + \$24,350 = \$28,050$) has been assessed to date.
- Had the second preliminary amendment filed October 27, 2006 been entered prior to processing, the total number of claims would be 32, and the total claims fee would be \$600 ($32-20=12 \times \$50 = \600).

The undersigned submits that Applicant acted in good faith reliance on the representations of the USPTO. Therefore, a refund in the amount of \$27,450 ($\$28,050 - \$600 = \$27,450$) is requested, respectfully.

The USPTO is directed and authorized to charge the \$400.00 fee and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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Should any questions remain, the USPTO is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Susan J. Mack

Registration No. 30,951

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: December 19, 2006